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OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable I. L. Chandler  
County Auditor  
Montague County  
Montague, Texas

Dear Sir:

Opinion No. 0-4944  
Re: Sheriffs and constables -  
Arrest fees in misdemeanor  
cases.

Your request for opinion has been received and carefully considered by this department. We quote from your request as follows:

"Please give me a ruling on the following question. I would like to know the fee a sheriff is entitled to receive as arresting fee in Justice Court. The case which I need this ruling in is as follows. The sheriff arrested a man on the highway and filed two cases against him in the Justice Court, and this man paid two fines. The Justice of the Peace collected two arresting fees of four dollars each. In this County the arresting fee that has been collected has been two dollars for a number of years. I would like to know if the arresting fee is two or four dollars in Justice Court."

Article 1065, Vernon's Annotated Texas Code of Criminal Procedure, reads in part as follows:

"The following fees shall be allowed the sheriff, or other peace officer performing the same services in misdemeanor cases, to be taxed against the defendant on conviction:

"1. For executing each warrant of arrest or capias, or making arrest without warrant, two dollars."

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In answer to your specific question we respectfully advise that it is our opinion that sheriffs and constables are entitled to a fee of \$2.00 for each legal arrest made in misdemeanor cases. (This of course includes legal arrests made in Justice Court criminal cases.) In this connection we are enclosing herewith a copy of Opinion No. 0-1160 of this department which may be helpful in various fact situations which you may have before you.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

*Wm. J. Fanning*

Wm. J. Fanning  
Assistant

WJF:JP

ENCLOSURE

APPROVED OCT 27, 1942

*Gerald C. Mann*

ATTORNEY GENERAL OF TEXAS

